

1        wasn't going to go forward, you sell, you  
2        split up the money, and you're done.

3                Q        So in the view of both you and  
4        Chandu Patel at that point, Matt really hadn't  
5        done anything towards operating during -- from  
6        when he got the licenses up to that point?

7                A        No. And so --

8                Q        Did that -- I'm sorry. Go ahead.

9                A        That was the issue. What's the  
10       company going to do? And you asked me what,  
11       you know, Chandu's view was, and Chandu's view  
12       was, if you're not going to go ahead and do  
13       this, you sell, and give me my money. And  
14       that's it. It's just all business. He was  
15       disappointed, probably, and the meetings that  
16       we had reflected that. But he's a big boy.  
17       And you know, he'd still make a profit and  
18       move on.

19                Q        And did that ever change, that  
20       situation where you felt that Mr. Austin  
21       hadn't made any real progress, or didn't have  
22       any real intent towards, you know, creating an

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1 operating system?

2 A I don't understand your question.

3 Q Did your feeling that, the feeling  
4 that you've just told us you had in 2003, had  
5 that changed, or did it change over the period  
6 of time you were associated with Preferred?

7 A Didn't change at all.

8 MR. SILVA: You know, I'd like to  
9 clarify that a little bit. There were  
10 actually two questions. Whether he intended  
11 and whether he in fact accomplished, and you  
12 know, I think just to clarify, he ought to  
13 answer those questions separately.

14 MR. OSHINSKY: Well, I thought he  
15 did answer, and I'm satisfied with the answer.

16 MR. SILVA: All right.

17 THE WITNESS: Let me make sure I  
18 understand. Okay. You're saying, is it my  
19 perception of --

20 MR. OSHINSKY: Yes, that's exactly  
21 what I said. What was your -- you gave me  
22 your perception in 2003, and I just asked you

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1 whether your perception had ever changed.

2 THE WITNESS: No. Never changed.

3 MR. OSHINSKY: That's really all I  
4 asked.

5 BY MR. OSHINSKY:

6 Q Is there any essential difference  
7 between PAI, the subsidiary, and Preferred, in  
8 terms of either operation, or in terms of  
9 selling of stock, or offerings? Anything like  
10 that? Are they essentially one company?

11 A Well, Preferred Acquisitions, Inc.  
12 won the geographic licenses in auction 34, and  
13 holds, still holds all the licenses.

14 Q But in terms of an operating  
15 business --

16 A No. I would say, you know,  
17 Preferred is the holding company, and if  
18 properly organized, it's going to look like  
19 most wireless companies. You're going to have  
20 a holding company, you're going to have an  
21 operating subsidiary, you're going to have --  
22 and these will hold the licenses separately,

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1 by area, geographical area. You might have a  
2 finance subsidiary. You know. It hasn't done  
3 those things yet, but it certainly should, if  
4 it were going to build and operate systems.

5 MS. SINGH: How about, let's put it  
6 this way, if I may. In terms of what  
7 employees did at PCSI or consultants did at  
8 PCSI, what you would have done during your  
9 time there, would the work that you've done  
10 for PCSI have been separate from any employees  
11 or contractors or other people doing work for  
12 PAI? Or did the employees and consultants for  
13 these two entities overlap?

14 THE WITNESS: I think it was all  
15 just Preferred.

16 MS. SINGH: It was all just  
17 Preferred?

18 THE WITNESS: To my knowledge,  
19 nobody did anything for PAI separately from  
20 Preferred.

21 MS. SINGH: Okay. Thank you.

22 MR. OSHINSKY: Actually, that's

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1 exactly my question, too. Give me just a  
2 moment here.

3 BY MR. OSHINSKY:

4 Q Had you been involved in the  
5 acquisition of auction licenses before Auction  
6 34?

7 A No.

8 Q And so all of your experience with  
9 wireless licenses before, acquiring wireless  
10 licenses before that came from acquiring  
11 aftermarket licenses?

12 A Or filing applications.

13 Q Or filing applications.

14 A Yes, sir. That was the first time,  
15 and basically, none of us knew anything about  
16 it except Chandu. He taught us -- he tried to  
17 explain to us how it was going to work, and  
18 what we should watch out for, and so forth.

19 Q This is in Auction 34?

20 A Yes, sir.

21 Q And do you know who actually  
22 created the forms that were filed in Auction

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1 34 for Preferred?

2 A I was in the Palm Springs office  
3 when they were doing that. It was Michelle on  
4 the phone with David Kaufman.

5 Q Okay. And so do you know which one  
6 of them actually created the finished form  
7 that was filed?

8 A My perception was, and I don't  
9 know, you know, firsthand, but my perception  
10 was that David Kaufman either wrote the words,  
11 or he, on a speaker-phone just, you know, he  
12 said the words and Michelle, you know, typed  
13 them in on the computer. The actual content  
14 came from Kaufman, one way or the other.

15 Q Okay. And who did the actual  
16 filing?

17 A Michelle.

18 Q And is that true for the 175, 601 -  
19 -

20 A Yes.

21 Q -- and 602?

22 A Yes. She would have been the only

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1 possible person to do it.

2 Q Why is that?

3 A She was the only one I know that  
4 was involved in the 175 with Kaufman, and  
5 nobody else was in the office when the 602 was  
6 filed. Everybody else was in Puerto Rico at  
7 the time. We were all in San Juan. She was  
8 the only one back in the office.

9 Q And was this the trip where you had  
10 ventured outside of your probation and --

11 A No. This was another trip,  
12 actually. Yes.

13 Q Are you familiar with the Bureau's  
14 two letters of inquiry that they issued to  
15 Preferred?

16 A I'm aware that -- now I'm aware of  
17 it. I wasn't aware at the time. No, sir.

18 Q So were you aware of the first one  
19 in June of 2006?

20 A I was told on the phone, by Matt,  
21 he'd received something. And then I was still  
22 in Texas. And he called up Paul Besozzi at

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1 Patton Boggs, and they were talking about it,  
2 and I was there, briefly, and I tried to make  
3 a contribution, and I was told just to  
4 basically shut up and get out of there, so I  
5 shut up and got out of there.

6 Q What contribution were you trying  
7 to make?

8 A Well, I was trying to -- they were  
9 talking about things that might be possible  
10 problems, and I was trying to alert Mr.  
11 Besozzi to something I thought might be a  
12 possible problem.

13 Q Can you tell us what that was?

14 A I'd rather not do that. But just  
15 my perception of things.

16 Q Well, I'm asking you for your  
17 opinion, and you are supposed to answer unless  
18 it involves an area that's privileged.

19 MR. SILVA: Well, it does involve  
20 the privilege, in a sense. Besozzi --

21 MR. OSHINSKY: So are you  
22 instructing him not to answer?

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1 MR. SILVA: I'm just saying, and  
2 you're asking him about a conversation he had  
3 with the Preferred's attorneys.

4 MR. OSHINSKY: No, no. I'm not  
5 asking about --

6 MR. SILVA: Paul Besozzi was the  
7 attorney, wasn't he?

8 MR. OSHINSKY: He said he had some  
9 opinions that he wanted to share with them and  
10 he was not given license to share those  
11 opinions. And I'm asking him what those  
12 opinions were. They were not communicated.  
13 Therefore, there's no attorney privilege  
14 involved. So I have to tell you Mr. Waugh, I  
15 understand, you may be reluctant to share your  
16 opinions, but unless it's an area that your  
17 attorney's instructing you not to answer  
18 because of privilege, you are supposed to  
19 answer.

20 THE WITNESS: Well --

21 MR. OSHINSKY: Could you give me,  
22 very briefly, what your concerns were, just

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1 briefly.

2 THE WITNESS: I was concerned about  
3 how Matt was characterizing certain activities  
4 and relationships with the attorney. I  
5 thought he should have told him something  
6 different than he was telling them.

7 BY MR. OSHINSKY:

8 Q Does it have to do with your  
9 relationship with Preferred or your  
10 relationship with Mr. Austin?

11 A My relationship with Preferred.

12 Q Can you tell us what was your  
13 preference.

14 A Well, let me put it this way. In  
15 dealing with attorneys, particularly when you  
16 have a fairly serious matter, my view is you  
17 tell them everything, you let the attorney  
18 figure out what to do with the information,  
19 and I didn't see that that was necessarily  
20 occurring like I would -- in other words, what  
21 Matt was doing wouldn't be what I was doing,  
22 if I were in a position to make decisions.

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1                   So I was trying to interject and  
2 Matt told me that I couldn't do that. Does  
3 that make sense? Telecellular, Inc.

4           Q       Yes, that makes sense.

5           A       If you're going to hire someone to  
6 represent you, they need to be able to do  
7 that.

8           Q       Know the facts.

9           A       Yes.

10          Q       Okay. Were you ultimately involved  
11 with either providing documents or information  
12 for that first letter of inquiry in June 2006?

13          A       No.

14          Q       You were completely cut out of  
15 that?

16          A       I didn't -- I barely knew that it  
17 was going on, and I wasn't -- at the time that  
18 was occurring, I was asked to go out to  
19 Fresno, California, and be involved in some  
20 marketing activities.

21          Q       I was just going to ask you what  
22 you --

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1           A       So I was sent around to do that,  
2           and that's -- I didn't have any involvement in  
3           responding to it.

4           Q       Did you get the feeling that you  
5           were being sent away?

6           A       Well, I had the feeling I wasn't  
7           going to be participating in responding to  
8           that letter of inquiry. Let's put it that  
9           way.

10          Q       And what about the -- the same  
11          question for the second letter of inquiry in  
12          December. Were you aware of that?

13          A       Matt called me. He was in -- he  
14          was actually in Arizona at the time with Mr.  
15          Ryan, Charles Ryan, another attorney, and  
16          there were some questions that you all had  
17          asked that required, were about me, or  
18          something that I had done personally, or  
19          something.

20                    So he asked me to draft up some  
21          responses and send them to him, and I drafted  
22          up the responses and sent them to him, and

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1       that was it.

2               Q       And that was in December of two  
3       thousand --

4               A       January.    It was January, like  
5       early January 2007.

6               Q       But as you understood, it was in  
7       relation to that second letter?

8               A       Yes.

9               Q       Okay.

10              A       That was my only involvement.  What  
11      they did with my responses, I don't --

12              Q       Did    your    responses    involve  
13      documents to be produced?

14              A       No.    It was actually just a draft  
15      of like an answer, kind of thing.

16              Q       Okay.  And was the request from Mr.  
17      Austin or from the attorney?

18              A       It was from Matt.    They didn't  
19      think they could answer those -- those items.

20              Q       So they needed the information?

21              A       Yes.

22              Q       All right.  Give me another second

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1 here. And can you tell us a little bit about -  
2 - strike that. Let me go off the record for  
3 a second.

4 (Whereupon, the above-entitled  
5 matter went off the record at 2:53 p.m. and  
6 resumed at 2:54 p.m.)

7 MR. OSHINSKY: On the record.

8 THE WITNESS: Besozzi prepared an  
9 affidavit for me to sign. I think it was with  
10 respect to the first one. I'm not sure, but  
11 I'm pretty sure that's right. Then I did read  
12 it and decided it was -- I believe it  
13 submitted as part of the response, so --

14 MR. OSHINSKY: Okay. Ms. Singh is  
15 going to go through all that with you.

16 THE WITNESS: Okay. All right.

17 MS. SINGH: I'll interject now for  
18 just a minute, if I can.

19 MR. OSHINSKY: Okay.

20 BY MS. SINGH:

21 Q You just said off the record -- and  
22 was this something that you just consulted

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1 with your attorney about and were able to  
2 answer?

3 A Yes. He remembered that we'd gone  
4 over this on --

5 Q Okay.

6 A Yes. He was correct.

7 Q Thank you.

8 A I just forgot about it.

9 MS. SINGH: Thank you.

10 MR. OSHINSKY: Okay.

11 BY MR. OSHINSKY:

12 Q Can you tell us about the waiver  
13 request which was filed on behalf of PAI in  
14 relation to the auction licenses, auction 34  
15 licenses.

16 A Don't know much about that.

17 Q You were not involved in that?

18 A No, sir. I was told they were  
19 going to do that, about a day or two before it  
20 was filed. That's all I know. That's all I  
21 know about that.

22 Q What was your understanding about

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1        why they were doing it?

2            A        I don't understand why they did it.  
3        Today, I don't understand why they did it.

4            Q        You understood they were up against  
5        some construction deadlines?

6            A        Oh, yes.        That's why we were  
7        raising money out in California. But I had  
8        thought that what they were going to do was  
9        basically, in my conversations with Mr.  
10       Calderon and Matt, they were in fact going to  
11       get the licenses constructed and meet the  
12       substantial service requirement.

13           Q        And how long did that  
14        understanding, your understanding of that  
15        persist? In other words, did there come a  
16        time when you realized that they weren't going  
17        to be doing that?

18           A        When they told me they were going  
19        to file for a waiver instead. December of  
20        2005.

21           Q        So was it your understanding that  
22        up to December of 2005 they -- I mean, you've

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1 told us that you didn't believe they were  
2 doing anything towards constructing an  
3 operating set of licenses, or operating  
4 network.

5 You must have, at some point,  
6 realized that they have to do something. You  
7 were aware of the construction deadline, were  
8 you not?

9 A Well, if I gave you the impression  
10 that they weren't doing anything towards  
11 building and operating a commercial system,  
12 that was correct. I understood what they were  
13 doing in terms of trying to get the licenses  
14 preserved and to meet the minimum  
15 construction standard.

16 Q What did you understand them to be  
17 doing then?

18 A Well, I knew that Preferred had  
19 hired Concepts To Operations, Inc., and then  
20 Alex was involved and he had a number of  
21 subcontractors. They'd gotten site leases in  
22 all the markets and they'd ordered equipment,

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1 and a lot of the equipment's in a warehouse,  
2 and they managed to work through some third  
3 party firms and compile a lot of equipment.

4 And they were in a position either  
5 to met the substantial service requirement or  
6 certainly qualify for grant of a waiver.

7 But my understanding was they'd  
8 done enough to be able to, in November,  
9 December, to get the licenses on the air and  
10 meet the substantial service requirement.

11 Q And when you say get the licenses  
12 on the air, what do you mean?

13 A Deploy equipment, install  
14 equipment, test equipment, send out a  
15 continuous signal to meet the substantial --  
16 you know, cover a certain percentage of the  
17 population of each market.

18 Q And your understanding in December  
19 of 2005 was that they were in a position to do  
20 that?

21 A Yes, sir.

22 Q And so when they filed for a

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1 waiver, that was a complete surprise to you?

2 A I was shocked, yes, I was shocked.

3 Q And did you have anything to say  
4 about it?

5 A Yes. I had a few things to say  
6 about it.

7 Q What did you say? What did you  
8 tell Mr. Austin?

9 A What in the bleep do you think  
10 you're doing, man? What are you doing?

11 Q And what was his response?

12 A He thought that was the best thing  
13 to do. He never explained why. He just --  
14 that was his decision. He made the decision.  
15 That's what he's going to do.

16 Q And did you ask him at that time  
17 why he wasn't orienting himself towards  
18 operate, actually operating?

19 A No. I was just cursing, is what I  
20 was --

21 Q Just cursing?

22 A Just cursing.

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1 Q Okay.

2 A You know, we spent a year almost,  
3 raising a whole lot of money and sent him the  
4 whole money, and the whole point of doing that  
5 was to get the licenses on the air to meet the  
6 substantial service requirement. He calls up,  
7 out of the blue, and tells us that he's not  
8 going to do that. So we weren't real happy.  
9 Alex wasn't real happy either.

10 Q What was your -- I'm sorry, go  
11 ahead. I didn't mean to cut you off.

12 A No, it's just -- you know -- look,  
13 man, we've busted our butts. I lived in an  
14 extended stay America Place for 11 months,  
15 and, you know, flying around and doing all  
16 kinds of things, and we didn't understand why  
17 we couldn't finish, why we couldn't get the  
18 thing -- you know -- get it done.

19 Q So was your expectation that in  
20 2006 you guys were going to have an operating  
21 system?

22 A I thought about in 2006 all the

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1 licenses would have been constructed to meet  
2 the substantial service requirement. You  
3 could go forward from there. Yes.

4 Q What would going forward mean?

5 A Building a major wireless  
6 communication system in Puerto Rico and the  
7 Virgin Islands.

8 Q Had you done all of the things  
9 necessary to make that system work in 2006?

10 A No, we hadn't, but -- not as of  
11 December 2005. But, you know, the whole point  
12 was if you didn't preserve the licenses, you  
13 didn't have anything, and that was our goal  
14 for the 2005 year. We thought we'd made that.  
15 We thought we'd accomplished that goal, and we  
16 were told at the last minute, no, we didn't do  
17 that. We're going to file for a waiver  
18 instead.

19 Q Well, wasn't he preserving the  
20 licenses by filing for the waiver?

21 A But that's not what we wanted to  
22 do.

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1           Q     What did you envision the next step  
2     being after December of 2005?

3           A     Well, assuming that preserved the  
4     licenses through meeting the substantial  
5     service requirement, then all the things that  
6     would have, we would have laid out in, say,  
7     the memo to Patel back in 2003, the memo that  
8     wasn't sent, the company was going to do all  
9     those things.

10           The company had five goals for  
11     2005, and it didn't meet a single one of them.

12           Q     Can you tell us what the five were.

13           A     Well, number one was all the status  
14     of the auction 34 loans with the Patel family.  
15     Number two, get certified financial statements  
16     prepared. Number three, getting operating  
17     system appraisal, which wasn't done. Number -  
18     - one of the things was meeting substantial  
19     service requirement, and I think the other one  
20     was probably getting a search firm, and  
21     beginning the process of bringing on real  
22     strong people on the board of directors.

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1           Q     All right. I'm going to ask you  
2 one more question. Then I think we're going  
3 to take a break for a few minutes. Had what  
4 you envisioned, or what you wanted, been  
5 accomplished in 2005, what was the next step  
6 for you, in your mind?

7           A     Well, basically, when --

8           Q     Because you need to -- and I guess  
9 what I'm getting at is were you moving on to  
10 getting customers for your network? Or were  
11 you moving on to getting more money in order  
12 to either acquire additional licenses or  
13 something like that?

14          A     Well, you were going to have to  
15 raise more money, obviously. But you were  
16 looking at an executive search firm. You were  
17 looking at revising your business plan. You  
18 were looking at raising money. You were  
19 looking at acquiring additional spectrum.  
20 Positioning the company so it could move  
21 forward and build a major system in Puerto  
22 Rico.

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1 MR. OSHINSKY: All right. I'm  
2 going to propose that we take about a ten  
3 minute break right at this time, so I can make  
4 an assessment of how we're going to proceed,  
5 and why don't we come back at about ten after.  
6 Is that good for everybody?

7 MS. SINGH: Off the record.

8 (Whereupon, the above-entitled  
9 matter went off the record from 3:02 p.m. and  
10 resumed at 3:16 p.m. under Sealed Testimony.)  
11  
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